

REMARKS

Applicant submits this Amendment in response to the Office Action dated September 16, 2009. Reconsideration of the subject application as amended herein is respectfully requested.

Claims 1-38 were pending in this case; of these, claims 1, 13, 25, 29, 31 and 35-38 were independent. In the Office Action, the Examiner objected to the form of claim 11, and rejected at least some of the claims under 35 U.S.C. §112, sixth paragraph, as well as certain claims under 35 U.S.C. §112, second paragraph. In addition, the Examiner rejected most of the claims based upon prior art. Specifically, the Examiner rejected certain claims under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,081,286 to Kielland, and certain claims under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2002/0109610 to Katz. The Examiner indicated, however, that claims 7, 8, 19 and 20 contain allowable subject matter, and that those claims would be allowable if rewritten so as not to depend from a rejected base claim.

Applicant appreciates these indications of allowability, and in this Amendment applicant has canceled claims 1-38, and is presenting herewith new, rewritten claims 39-56, of which claims 39 and 48 are independent. Applicant will endeavor to explain hereinbelow the basis on which applicant sincerely believes that claims 39-56, as

currently presented, are patentable over the cited prior art and are otherwise allowable.

Turning first to the Examiner's rejection of certain claims under 35 U.S.C. §112, it should be noted that new claims 39-56 have been written so as to contain fewer "means plus function" limitations than the claims that have been canceled; some of the "means plus function" claim elements have been replaced with more definite terms (such as "unit"), and therefore, the Examiner's objections under the sixth paragraph of 35 U.S.C. §112 to some of the claim elements listed on page 2 of the Office Action have become moot. Also, the "means plus function" recitations that do remain have been made consistent throughout the new claims, and therefore it is believed that the Examiner's objections under the second paragraph of 35 U.S.C. §112 have become moot as well.

As to the Examiner's objections to the remaining "means plus function" claim elements under the sixth paragraph of 35 U.S.C. §112, applicant asserts that the corresponding structures that perform the claimed functions for each such claim element that appears in the new independent and dependent claims presented herewith are set forth in the written description of the specification, and for the Examiner's convenience (and for the record as well) applicant provides the following concordance:

"Wireless receiving means"	The modem 1110 of Fig. 4 as described at page 21, final paragraph, to page 23, top paragraph
"Wireless signal transmitting means"	The radio or microwave receiver as described at page 22, bottom line
"Compliance determining means"	The processors 1112-1114 described at page 22, top paragraph
"Rule storage means"	The databases 1121-1125, etc. described on page 22
"Compliance storage means"	The event database 1134 or 1143 described on pages 25-26 and shown in Fig. 8
"Vehicle observing unit"	Unit 1400 shown in Figs. 1 and 2
"Fee payment means"	The parking infringement processor and parking purchase database 1133 described on page 22
"Wireless signal transmitting units"	Units 1500 shown in Figs. 1 and 3

In addition, there is a statement at page 38, second paragraph, explaining the type of hardware that is used for the processing apparatus, *i.e.*, the compliance determining means. Applicant therefore asserts that new claims 39-56 pass muster under 35 U.S.C. §112.

Turning now to the rejections based upon prior art, the Examiner will appreciate that new independent claim 39 incorporates (and clarifies) the limitations that were present in former independent claim 1 as well as in former dependent claims 2, 3 and 7, while new independent claim 48 incorporates (and clarifies) the limitations that were

present in former independent claim 13 as well as in former dependent claims 14, 15 and 19. Since the Examiner indicated that former dependent claims 7 and 19 contain allowable subject matter, it is submitted that new independent claims 39 and 48 also must contain allowable subject matter and, as presently written, are allowable. There are no new claims which correspond to former claims 25-38, although applicant reserves the right to file one or more divisional applications claiming the subject matter to which canceled claims 25-38 were directed.

Thus, there are now only two independent claims remaining in this case. Claim 39 relates to an apparatus for determining parking compliance. Claim 48 relates to a system which incorporates the apparatus as well as a plurality of transmitting units. It is submitted that these two independent claims are clearly linked so as to form a single inventive concept, and that a person of ordinary skill in the art would not find these two independent claims unclear, as their respective scopes are clearly defined. In these independent claims, it is now specified, for clarification, that the signal transmitting unit type or enquiry type is selected from a plurality of signal transmitting unit types or enquiry types. It was already implicit in former dependent claim 7 that there were a plurality of signal transmitting unit types because there were separate compliance determining means for different unit types. It was implicit that the signal would represent just one signal transmitting unit type. Therefore, that one must have been selected from a plurality.

In summary, new independent claims 39 and 48 are neither anticipated nor rendered obvious by the cited prior art, a point which the Examiner has already conceded by having noted allowable subject matter in former dependent claims 7 and 19; moreover, new dependent claims 40-47 and 49-56 are also free of the prior art, *a fortiori*. Accordingly, claims 39-56 should be allowed.

Although applicant is adding new claims 39-56, applicant contends, particularly in view of the cancellation of former claims 1-38, that neither the number of independent claims, nor the effective total number of claims overall, now exceeds the respective total numbers of such claims covered by the filing fees previously paid for this case. Accordingly, and since the fee for presentation of one or more multiple dependent claims was also previously paid for this case, no further additional claims fees are believed to be due with this response. Nevertheless, the Commissioner is authorized to charge any additional filing fees which may be required, or to credit any overpayment, to Deposit Account No. 07-1730.

However, the Commissioner is requested to construe this paper as including a retroactive petition for a three-month extension of time in which to file a response to the outstanding Office Action, and accordingly, the official fee of \$555.00, as prescribed

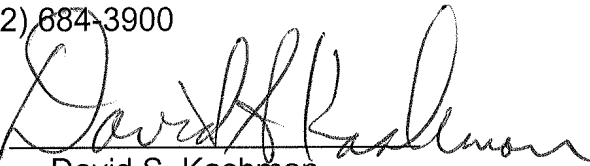
therefor by 37 C.F.R. §1.17(a)(3), as amended, in the case of a small entity, is submitted herewith. The Commissioner is authorized to charge any additional extension fees which may be required, or to credit any overpayment, to Deposit Account No. 07-1730.

Applicant has responded herein to the points raised by the Examiner in the Office Action, and applicant has rewritten the claims in an earnest effort to place this application in condition for allowance. Accordingly, further favorable action in connection with this patent application is earnestly solicited. The Examiner is invited to contact the undersigned attorney by telephone if it will advance the prosecution of this case.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN
Attorneys for Applicant
270 Madison Avenue
New York, New York 10016-0601
(212) 684-3900

By:



David S. Kashman
(Registration No. 28,725)

Dated: New York, New York
March 15, 2010